

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

GERRY BARRETT, SR., <i>Plaintiff,</i>	§ § § § § § §	CIVIL ACTION H-05-0726
vs.		
WHARTON COUNTY, <i>Defendant.</i>		

ORDER

Before the court is defendant Wharton County's motion to compel plaintiff Gerry Barrett, Sr. to provide initial disclosures and to attend a deposition, as well as Wharton County's motion for sanctions (Dkt. 19). These motions have been referred to this court for disposition. For the following reasons, the motions to compel are granted, and the motion for sanctions is granted in part.


Wharton County's motions were filed November 3, 2005, and a response was due November 23, 2005. Because no response has been filed, the court treats the motions as unopposed. *See* S.D. Tex. Loc. R. 7.4 ("Failure to respond will be taken as a representation of no opposition"). The motions are further warranted by the circumstances. Barrett filed his initial complaint on March 4, 2005, and filed an amended complaint on April 25, 2005. A Rule 16 Scheduling conference was held on August 9, 2005. Barrett has yet to file initial disclosures required by Federal Rule of

Civil Procedure 26(a)(1). Accordingly, Barrett is ordered to file initial disclosures within ten days of entry of this order.

After the parties failed to reach a mutually agreeable time for his deposition, Barrett was given adequate notice to attend a deposition set for October 18, 2005. He did not attend the deposition, give notice that he would not be attending the deposition, or make arrangements to reschedule the deposition. Therefore, the court orders that Barrett appear for deposition by December 16, 2005, or at a later date if mutually agreed by the parties.

Finally, the court grants Wharton County's motion for sanctions, in part. Barrett is ordered to reimburse Wharton County for the court reporter's cost of \$205.70, resulting from his failure to appear for deposition. *See* FED. R. CIV. P. 37(d). Barrett is further advised that if he fails to comply with the rules of discovery or any order of the court, his case may be involuntarily dismissed under Federal Rule of Civil Procedure 41(b).

Signed on November 30, 2005, at Houston, Texas.


Stephen Wm Smith
United States Magistrate Judge